

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

HARRY HAMILTON, :

Plaintiff : **CIVIL ACTION NO. 3:21-501**

v. : **(JUDGE MANNION)**

LANCE HAMILTON, et al., :

Defendants :

ORDER

Pending before the court is the January 18, 2022 report of Chief United States Magistrate Judge Karoline Mehalchick, which recommends that the plaintiff's complaint and amended complaint, (Docs. 1 & 3), be dismissed without prejudice since plaintiff failed to serve the summons or his complaint on all Defendants, and failed to show good cause, as directed by the court, as to why service had not been made in accordance with Fed.R.Civ.P. 4. (Doc. 11). No objections have been filed to Judge Mehalchick's report and the time within which they were due has lapsed.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72(b), advisory committee notes; see also Univac Dental Co. v.

Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 (M.D. Pa. 2010) (citing Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

Plaintiff commenced the instant civil rights action by filing, *pro se*, his complaint on March 16, 2021. (Doc. 1). Plaintiff paid the filing fee, and the summons was issued. He then filed an amended complaint on August 5, 2021, (Doc. 3), and summons was then issued as to his subsequent pleading. (Doc. 4). On August 31, 2021, plaintiff filed a motion for preliminary injunction, (Doc. 5), and on September 20, 2021, he filed a motion to amend his injunction motion, (Doc. 7). Subsequently, on December 16, 2021, the court ordered plaintiff to show good cause by December 30, 2021, why his action should not be dismissed without prejudice for failure to affect proper service of his amended complaint on the defendants, pursuant to Fed.R.Civ.P. 4(m). (Doc. 10). Plaintiff failed to make a timely showing of good cause as directed by the court, and Judge Mehalchick then issued a report recommending that this case be dismissed without prejudice.

The court has considered the findings in Judge Mehalchick's report and finds no clear error of law. See [Domitrovich v. Aetna, Inc.](#), 2019 WL 2085993, *5 (W.D. Pa. May 13, 2019) (holding that "[t]he court obtains personal jurisdiction over the defendant through service of process—that is, service of the summons and complaint—in accordance with Rule 4", and "[i]f the plaintiff fails to properly serve the defendant, and the defendant does not waive service, the court does not have personal jurisdiction and must dismiss the complaint against defendant.") (citing [Mathies v. Silver](#), 266 Fed. Appx. 138, 140 (3d Cir. 2008)). In short, the court agrees with the sound reasoning which has led Judge Mehalchick to the conclusions in her report. As such, the report and recommendation will be adopted in its entirety as the opinion of the court.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

(1) The report and recommendation of Judge Mehalchick, (Doc. 11), is

ADOPTED IN ITS ENTIRETY AS THE RULING OF THE COURT.

(2) The plaintiff's amended complaint, (Doc. 3), is **DISMISSED WITHOUT PREJUDICE.**

(3) The plaintiff's motion for preliminary injunction, (Doc. 5), and motion to amend his injunction motion, (Doc. 7), are **DISMISSED AS MOOT.**

(4) The Clerk of Court is directed to **CLOSE THIS CASE.**

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

DATE: February 25, 2022

21-501-01